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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,641	07/23/2003	Yoshinobu Hosoi	116401	6888

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EXAMINER

CATTUNGAL, SANJAY

ART UNIT PAPER NUMBER

3735

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/624,641	HOSOI, YOSHINOBU	
	Examiner	Art Unit	
	Sanjay Cattungal	3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/23/4</u> | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 USC 102(b) as being anticipated by Hosoi et al. (Patent no. 5,859,688). Hosoi (Figure 1 numeral 10 and Column 4 Line 47) discloses an optometric apparatus that includes a pair of right and left lens chamber units in which various optical elements are electrically driven to be selectively disposed on to the test windows. Column 12- Line 12 discloses that the optometric device can perform the R/G test and Column 10 Line 57 discloses a red/green filter, which inherently includes presenting green filter and an aperture as part of the various optical elements. Since all the various optical elements are electrically driven Hosoi meets all the limitations of claims 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 2, 6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoi et al in view of Nakagawa (Patent no. 5,997,142). Hosoi et al. column 10 Line 57 discloses, "if the switch 34f is pressed while pressing the shift switch 44, the red-green filter can be applied over the target being currently presented" hence Hosoi et al. teaches us that the red green test is electrically driven and has an instruction means to run the test and the control means which causes the filters to placed in the test window. Hosoi et al. does not disclose time frames for each steps of the r/g testing. Nakagawa figure 4b and column 5 Line 45 teaches us that the lamp 3g for green light to light up or flicker continuously for a fixed time, then cause the lamp 3R for red light and 3G for green light to light simultaneously. Nakagawa Column 6 Line 17 teaches us that the 3G can also be lit continuously for a fixed period of time. Nakagawa Column 6 Line 62 teaches us about an electrical switching circuit to do the test automatically. Nakagawa Column 7 Line 25 teaches us about repeating the process. Nakagawa Column 7 Test A, B and C teaches us that the green light condition (first predetermined set) is longer than the aperture setting (red and green simultaneously being displayed). Nakagawa Column 7 Test B teaches us that the red target and green target were lit simultaneously for one second in four seconds. Hence it would have been to one skilled in the art at the time of invention to modify Hosoi to place the green filter and aperture in the test window for a predetermined amount of time and/or repeat the test as taught by Nakagawa in order to automate the test, since every test has a protocol to follow

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and it would be obvious to program the system according to the protocol, so as to have one step longer than the other or of a set time interval.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoi et al in view of Ishikawa et al. (Patent No. 5,640,221). Hosoi discloses the above limitation but does not expressly disclose a shielding plate as one of the elements on the rotating disk to be used to shield the test window. Ishikawa column 7-line 48 teaches about using a shielding plate to shield from external light. It provides the basis of using a shielding plate to shield the test window. Hence it would be obvious to one skilled in the art at the time of invention to modify Hosoi to use a shielding plate to shield the test windows. Since shielding test windows would result in less noise and to prevent the test subject from viewing unwanted areas hence a more controlled test with better test results.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoi et al., in view of Ishikawa et al. as applied to claim 3 above and further in view of Nakagawa. Hosoi in view of Ishikawa teaches the above limitation but does not disclose time frames for each test. Nakagawa (Column 5 Line 45 and Column 6 Line 17) teaches us of time frames for the green and the aperture settings. Hence it would be obvious to one skilled in the art at the time of invention to put Nakagawa together with Hosoi in view of Ishikawa to form a device with a pair of left and right lens units in which various optical elements in a circumferentially mounted disk, to be electrically driven at fixed time frame for the particular task, and its conditions. The shielding plate would also be added to the

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system to shield the test window and to prevent noise (unwanted light from entering the system) and to prevent the user from viewing unwanted items.

Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoi et al. as applied to claim 1 above, and in view of Nakagawa. Claim 5 and 10 discloses a selection means for selecting between a r/g test with using a green filter and a conventional r/g test without using the green filter. Nakagawa (Column 7 Line 45) also teaches us of the "conventional test method" for the r/g test. Since a "conventional test method" is a standard procedure in the field of art it would be obvious to one skilled in the art at the time of invention to use a standard protocol in his invention.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoi et al. in view of Nakagawa as applied to claim 6, in further view of Ishikawa et al. Hosoi in view of Nakagawa teaches the above limitation but it does not disclose shielding. Ishikawa teaches us about using a shielding plate to shield the test window. Since the shielding plate is part of the rotating disk it would be obvious to have it displayed at the test window for a set interval of time. Hence it would be obvious to one skilled in the art at the time of invention to put Hosoi in view of Nakagawa together with Ishikawa to form a device with a pair of left and right lens units in which various optical elements in a circumferentially mounted disk, to be electrically driven at fixed time frame for the particular task, and its conditions. The shielding plate would also be added to the system to shield the test window and to prevent noise (unwanted light from entering the system) and to prevent the user from viewing unwanted items.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanjay Cattungal whose telephone number is (571) 272-1306. The examiner can normally be reached on 10:00 – 7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ali Imam can be reached on (571) 272-4737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SPC


ALI IMAM
PRIMARY EXAMINER